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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS**

ROBERT PROBERT; LORETTA E.
PROBERT; GENE GRISSOM;
SANDRA GRISSOM; JOHN GRIMES;
DONNA GRIMES; KENNETH
MCDANIELS; LEONA MCDANIELS;
ERIC CLONINGER; DEBRA
CLONINGER; and LORETTA REES,

Plaintiffs,

vs.

FAMILY CENTERED SERVICES of
ALASKA, INC.; JOHN W. REGITANO;
KATHY CANNONE; SUSZAN DALE;
LONNIE HOVDE; DEBORAH L.
COXON, and ADDITIONAL DOES I to
X, Managerial Employers, Jointly Liable,

Defendants.

Case No. 4:07-CV-00030 RRB

MOTION TO STRIKE OR STAY MOTION TO DISMISS AT DOCKET [196]

The Ninth Circuit denied the Petition for Rehearing and Petition for Rehearing En Banc on August 18, 2011.

According to Supreme Court Rule 13-3, the Proberts have ninety (90) days to file Petition for Writ of Certiorari in the Supreme Court. See Supreme Court Rules 13-3 and

13-1. The District Court seems to be without jurisdiction until the Plaintiffs have had their opportunity to exhaust the appellate process.

The Proberts intend to do so. Should Plaintiffs be unsuccessful with the Petition for Writ of Certiorari, they very might well voluntarily dismiss the claim without the need for motion practice.

It would appear that jurisdiction has not returned to the District Court at this time. For these reasons, the Proberts move to strike FCSA's Motion to Dismiss.

The Court should Strike, Stay or give otherwise appropriate relief to prevent the unnecessary litigation of FCSA's Motion to Dismiss.

RESPECTFULLY SUBMITTED this 7th day of September, 2011, at Fairbanks, Alaska.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served electronically by ECF to the following attorney(s) and/or parties of the record:

John Foster Wallace

Richard D. Monkman

Dated: September 7, 2011

By: s/ Camille De Santiago
Law Office of Kenneth L. Covell